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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/505,467	12/02/2004	Eberhard Teufel	02198/0201733-USO	8882

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EXAMINER	
TRUONG, THANH K	
ART UNIT	PAPER NUMBER
3721	
MAIL DATE	DELIVERY MODE
05/15/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/505,467	TEUFEL ET AL.	
	Examiner	Art Unit	
	Thanh K. Truong	3721	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *02 December 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-15* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-15* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *02 December 2004* is/are: a)☐ accepted or b)☒ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *8-24-06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The following guidelines illustrate the preferred layout for the specification of a utility application. These guidelines are suggested for the applicant's use.

Arrangement of the Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the following sections in order. Each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading:

(a) TITLE OF THE INVENTION.
(b) CROSS-REFERENCE TO RELATED APPLICATIONS.
(c) STATEMENT REGARDING FEDERALLY SPONSORED RESEARCH OR DEVELOPMENT.
(d) THE NAMES OF THE PARTIES TO A JOINT RESEARCH AGREEMENT.
(e) INCORPORATION-BY-REFERENCE OF MATERIAL SUBMITTED ON A COMPACT DISC.
(f) BACKGROUND OF THE INVENTION.
    (1) Field of the Invention.
    (2) Description of Related Art including information disclosed under 37 CFR 1.97 and 1.98.
(g) BRIEF SUMMARY OF THE INVENTION.
(h) BRIEF DESCRIPTION OF THE SEVERAL VIEWS OF THE DRAWING(S).
(i) DETAILED DESCRIPTION OF THE INVENTION.
(j) CLAIM OR CLAIMS (commencing on a separate sheet).
(k) ABSTRACT OF THE DISCLOSURE (commencing on a separate sheet).
(l) SEQUENCE LISTING (See MPEP § 2424 and 37 CFR 1.821-1.825. A "Sequence Listing" is required on paper if the application discloses a nucleotide or amino acid sequence as defined in 37 CFR 1.821(a) and if the required "Sequence Listing" is not submitted as an electronic document on compact disc).

2. The disclosure is objected to because of the following informalities: the recitation "Pursuant to the invention the object is achieved with a device pursuant to claim 1" on line 6 of page 4 is improper. The specification should not be referred to the claim, because in the process of the prosecution of the application, the claim may be canceled, amended or withdrawn, and the canceled (or amended or withdrawn) claim will render the disclosure

indefinite or invalid. Other similar recitations through out the specification also need to be corrected (line 2, page 8). Appropriate correction is required.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the followings features must be shown or the feature(s) canceled from the claim(s). No new matter should be entered:

"a measuring and regulation unit" in claim 1, lines 6-7;

"a plastic probe guide" in claim 10, line 2-3;

"bale scales" in claim 14, line 2; and

"a regulation unit" in claim 15, line 2.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If

the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Double Patenting

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claim 1 is rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 13 of U.S. Patent No. 7,027,148. Although the conflicting claims are not identical, they are not patentably distinct from each other because claim 1 of the present application is anticipated by claim 13 of the U.S. Patent No. 7,027,148.

Claim Rejections - 35 USC § 112

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1, the recitation "the softener compound can be measured and regulated independently" (emphasis added) is vague and indefinite, because the phrase "can be" is not positively claimed the limitation – it is unclear whether the softener compound is measured or not measured.

Claim 2 recites the limitation "the filter strand" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 recites the limitation "the current speeds v1 and v2" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 2 as recited "wherein the device, when viewed in the moving direction of the filter strand, in front of and after the dosing device (4), for the softener sensor ... are provided" is confusing. It is unclear what is the claimed structure limitation.

Claim 7 recites the limitation "the moisture content" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the current prodcut" in line 4. There is insufficient antecedent basis for this limitation in the claim.

Claim 12, the phrase "The device" at the end of the claim should be deleted.

Claim Rejections - 35 USC § 102

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

9. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Greiner et al. (5,460,590).

Greiner et al. discloses an apparatus comprising:

a conditioning section (1), a formatting section (3), and a dosing device integrated into a conditioning section for dosing a softener (column 7, lines 19-22), the device further comprises sensors (46, 49) to detect mass flow, measuring and regulation unit (48).

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

11. Claims 2-8, 10 and 13-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greiner et al. (5,460,590) in view of Möller (5,736,864).

Regarding claim 2, as best understood, as discussed above in paragraph 9 of this office action, Greiner et al. discloses the claimed invention, but it does not expressly disclose the sensor located in front of the dosing device.

Möller discloses an apparatus that comprises two sensors in a flow of fibrous material to detect the mass flow and moisture content of the fibrous material flow, to be used in a filter rod making machine (column 1, lines 6-9). Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified Greiner et al. so that there are sensors placed in front of and after the dosing device to monitor the mass flow as recited in claim 2.

The modified Greiner et al. by Möller further discloses:

Regarding claims 3 and 4, Greiner et al. discloses that "Optionally the measuring device may comprise an additional measuring means known per se for determining a second characteristic value of the filter skeins". Therefore, it would have been obvious to one having ordinary skill in the art, at the time applicant's invention was made, to have modified Greiner et al. so that the sensor that detects the speed and the sensor the detects the length-related mass are arranged directly adjacent to each other.

Regarding claim 5, the formatting device comprises a cutting device (29) and sensor (46) is arranged in front of the cutting device.

Regarding claims 6, the examiner take official notice that it is old and well known to use optical speed sensors to detect the speed of the flow of the fibrous material.

Regarding claim 7 and 8, the sensors that detects the length-related mass (Greiner et al.- column 2, lines 58-60) also measure the moisture content of the filter to be measured (Möller – abstract).

Regarding claim 10, the microwave sensor comprises a closed, tube-shaped resonator that is perforated with a plastic probe guide (Möller – column 4, lines 40-45).

Regarding claims 13 and 15, the sensor to detect length-related mass of the filter strand is a beta-radiation source as well as a beta-radiation detector (Greiner et al. – column 8, lines 21-25); and a regulation unit (48) to regulate the filter material and softener mass.

Regarding claim 14, the examiner take an official notice that it is old and well known to use bale scales as a sensor to determining the mass flow of the filter material.

12. Claims 9, 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greiner et al. (5,460,590) in view of Möller (5,736,864) and further in view of the admitted prior art (from the Applicant's disclosure).

As discuss above in paragraph 11 of this office action, the modified Greiner et al. by Möller discloses the claimed invention, Greiner et al. and Möller are silent concerning the limitations as recited in claims 9, 11 and 12. However, the Applicant's disclosure (specification) discloses the followings are old and well known in the art:

the microwave sensor is a split resonator (page 6, lines 17-33 and page 7, lines 1-9);

the microwave sensor is designed as a planar sensor (page 7, lines 11-15); and

the microwave sensor is designed as a profile sensor (page 7, line 22-26).

Therefore, it would have been an obvious matter of design choice to one having ordinary skill in the art, at the time applicant's invention was made, to have modified Greiner et al. and Möller so that the microwave sensor can be a split resonator, a planar sensor or a profile sensor to provide a variation of microwave sensor as specified in claim 9, 11 and 12.

Conclusion

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thanh K. Truong whose telephone number is 571-272-4472. The examiner can normally be reached on Mon-Thru 8:00AM - 6:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

tkt
May 12, 2007.

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